

NATIONAL GAMBLING IMPACT STUDY COMMISSION

Recommendations Per May 17-18 Meeting

WORKING DRAFT
Revised May 26, 1999

III. REGULATING GAMBLING

- 3.1 The Commission recommends that in states where there is little regulatory oversight for organizations contracted to help manage or supply the lottery, states should put all individuals, entities and organizations involved with managing or supplying the lottery through a rigorous background check and licensing process.
- 3.2 The Commission recommends to States with lotteries that States should publicly develop and review model regulations for their lottery in the form of “best practices,” designed to be adopted legislatively.
- 3.5 The Commission recommends to State governments and the Federal government that States are best equipped to regulate gambling within their own borders with two exceptions – Tribal and Internet gambling.
- 3.6 The Commission urges States with lotteries to not allow instant games that are simulations of live card and other casino type games. Generally, the outcome of an instant game is determined at the point of sale by the lottery terminal that issues the ticket.
- 3.7 The Commission recommends that all relevant governmental gambling regulatory agencies should ban aggressive advertising strategies, especially those that target people in impoverished neighborhoods, or youth anywhere.
- 3.9 The Commission recommends that all legal gambling should be restricted to those who are at least 21 years of age, and that those who are under 21 years of age should not be allowed to loiter in areas where gambling activities occur.
- 3.10 The Commission recommends that States should refuse to allow the introduction of casino-style gambling into pari-mutuel facilities for the primary purpose of saving a pari-mutuel facility that the market has determined no longer serves the community, or for the purpose of competing with other forms of gambling.
- 3.11 The Commission received testimony that convenience gambling, such as electronic devices in neighborhood outlets, provides fewer economic benefits and creates potentially greater social costs by making gambling more available and accessible. Therefore, the Commission recommends that States should not authorize any further convenience gambling operations and should cease and roll back existing operations.
- 3.12 The Commission recommends to State and Tribal governments, the NCAA, and other youth, school, and collegiate athletic organizations that, because sports gambling is popular among adolescents and may act as a gateway to other forms of gambling, such organizations and governments should fund educational and prevention programs to help the public recognize that almost all sports gambling is illegal and can have serious consequences. The Commission recommends that this effort should include public service announcements, especially during tournament and bowl game coverage. The Commission recommends that the NCAA and other amateur sports governing bodies adopt mandatory codes of conduct regarding sports gambling education and prevention.

The Commission also calls upon the NCAA to organize America's research universities to apply their resources to develop scientific research on adolescent gambling, sports gambling, and related research.

- 3.15 The Commission recommends that each gambling operation, State lottery, Tribal government, and associations of gambling organizations adopt and then follow enforceable advertising guidelines. These guidelines should avoid explicit or implicit appeals to vulnerable populations, including youth and low income neighborhoods. Enforcement should include a mechanism for recognizing and addressing any citizen complaints that might arise regarding advertisements. Additionally, we recommend that Congress amend the Federal Truth-In-Advertising laws to include Native American gambling and State-sponsored lotteries.
- 3.21 The Commission recommends that warnings regarding the dangers and risks of gambling, as well as the odds where feasible, should be posted in prominent locations in all gambling facilities.
- 3.24 The Commission recommends that Federal, State, and Tribal gambling regulators should be subject to a cooling off period that prevents them from working for any gambling operation subject to their jurisdiction for a period of one year. Federal, State, or Tribal lottery employees should be subject to a cooling off period that prevents them from working for any supplier of lottery services for a period of one year.
- 3.28 The Commission recommends that jurisdictions considering the introduction of new forms of gambling or the significant expansion of existing gambling operations should sponsor comprehensive gambling impact statements. Such analyses should be conducted by qualified independent research organizations and should encompass, in so far as possible, the economic, social, and regional effects of the proposed action.
- 3.29 The Commission recommends that gambling "cruises to nowhere" should be prohibited unless the State from which the cruise originates adopts legislation specifically legalizing such cruises consistent with existing law.
- 3.35 The Commission recommends that States with lotteries reduce their sales dependence on low-income, less educated, minorities, and heavy players in a variety of ways, including limiting advertising and number of sales outlets in low-income areas.
- 3.36 The Commission recommends that States with lotteries create a private citizen oversight board. The board would make data-based policy decisions on types of games to offer, marketing strategies to follow, etc.
- 3.38 The Commission recognizes that lotteries and convenience gambling may play a significant role in the development of youthful gamblers. Further, with respect to all forms of legal and illegal gambling, the Commission recommends that all relevant governmental gambling regulatory agencies enact and enforce harsh penalties for abuse in this area involving underage gamblers. Penalties and enforcement efforts regarding underage gambling should be greatly increased.
- 3.52 The Commission recommends that betting on collegiate and amateur athletic events that is currently legal be banned altogether.

IV. GAMBLING AND ADDICTION

- 4.12 The Commission recommends that each gambling facility must implement procedures to allow for voluntary self-exclusion, enabling gamblers to ban themselves from a gambling establishment for a specified period of time.
- 4.16 The Commission respectfully recommends that all relevant governmental gambling regulatory agencies require, as a condition of any gambling facility's license to operate, that each applicant adhere to the following:
- (1) Adopt a clear Mission Statement as to applicant's policy on problem and pathological gambling.
 - (2) Appoint an executive of high rank to execute and provide ongoing oversight of the corporate Mission Statement on problem and pathological gambling.
 - (3) Contract with a State-recognized gambling treatment professional to train management and staff to develop strategies for recognizing and addressing customers whose gambling behavior may strongly suggest they may be experiencing serious to severe difficulties.
 - (4) Under a State "hold harmless" statute, refuse service to any customer whose gambling behavior convincingly exhibits indications of a gambling disorder.
 - (5) Under a State "hold harmless" statute, respectfully and confidentially provide the customer (as described above) with written information that includes a State-approved list of professional gambling treatment programs and State-recognized self-help groups.
 - (6) Provide insurance that makes available medical treatment for problem and for pathological gambling facility employees.
- 4.17 The Commission recommends encouraging private volunteerism of groups and associations working across America to solve problem gambling, especially those involving practitioners who are trying to help people who are problem gamblers. This should include strategically pooling resources and networking, drawing on the lists of recommendations these organizations have presented to the Commission, and working to develop uniform methods of diagnosis.
- 4.18 The Commission also respectfully recommends that all governments take every step necessary to implement all components of recommendation 4.16, 4.18, 4.19 and 4.20 before lotteries or any other form of legalized gambling is allowed to operate or to continue to operate. Such requirements should be specifically itemized in a State statute as applicable to a State-run lottery. Similarly, such requirements should also be specified and made applicable for inclusion in Tribal Government law and Tribal-State Compacts.

- 4.19 Each State and Tribal government shall, if it has not already done so, enact a Gambling Privilege Tax, assessment or other contribution on all gambling operations within its boundaries, based upon the gambling revenues of each operation.

A sufficient portion of such monies shall be used to create a dedicated fund for the development and ongoing support of problem gambling-specific research, prevention, education and treatment programs. The funding dedicated for these purposes shall be sufficient to implement the following goals:

1. Undertake biennial research by a nonpartisan firm, experienced in problem gambling research, to estimate the prevalence of problem and pathological gambling among the general adult population. Specific focus on major sub-populations including youth, woman, elderly and minority group gamblers should also be included. An estimate of prevalence among patrons at gambling facilities or outlets in each form of gambling should also be included.
 2. Initiate public awareness, education and prevention programs aimed at vulnerable populations. One such purpose of such programs will be to intercept the progression of many problem gamblers to pathological states. The absence of such efforts will present costly consequences to families, communities and others associated and/or affected by problem gamblers.
 3. Identify and maintain a list of gambling treatment services available from licensed or state-recognized professional providers, as well as the presence of state recognized self-help groups.
 4. Establish a demographic profile for treatment recipients and services provided. Develop a treatment outcome mechanism that will compile data on the efficacy of varying treatment methods and services offered, and determine whether sufficient professional treatment is available to meet the demands of persons in need.
 5. When private funding is not available, subsidize the costs of approved treatment by licensed or state-recognized gambling treatment professionals for problem and pathological gamblers, as well as adversely affected persons. Additionally, such funds shall ensure that persons in need of treatment can receive necessary support based upon financial need. Treatment cost reimbursement levels and protocols will be established by each State.
- 4.20 Each State-run or approved gambling operation shall be required to conspicuously post and disseminate the telephone numbers of at least two State-approved providers of problem gambling information, treatment and referral support services.

V. TECHNOLOGY AND THE FUTURE OF GAMBLING

- 5.1 The Commission recommends to the President, Congress, and the Department of Justice (DOJ) that the Federal government should prohibit internet gambling within the United States, and asks that the DOJ develop enforcement strategies included but not limited to Internet Service Providers, credit card providers, and money transfer agencies. Further, the Commission recognizes that Internet gambling is expanding rapidly, bringing gambling into the home of every family with a computer. Since it crosses State lines, it is difficult for States to adequately monitor and regulate such gambling.
- 5.2 The Commission recommends to the President, Congress, and State governments the passage of legislation prohibiting wire transfers to known Internet gambling sites, or the banks who represent them. Furthermore, the Commission recommends the passage of legislation stating that any credit card debts incurred while gambling on the Internet are unrecoverable.
- 5.5 The Commission recommends to the President and Congress that because Internet gambling is expanding most rapidly through off shore operators, the Federal government should take steps to encourage or enable foreign governments not to harbor Internet gambling organizations that prey on U.S. citizens.

VI. Native American Tribal Gambling

- 6.1 The Commission recommends to the President, Congress and NIGC that Federal laws concerning Native American Tribal Gambling should be strengthened to ensure adequate regulatory oversight and fiscal accountability. One vehicle for this would be increased funding and authority for the NIGC.
- 6.2 The Commission recommends that *IGRA*'s classes of gambling must be clearly defined so that there is no confusion as to what gambling constitute Class II and Class III gambling activities. Further, the Commission recommends that Class III gambling activities should not include any activities that are not available to other citizens of the State, regardless of technological similarities. Indian gambling should not be inconsistent with the state's overall gambling policy.
- 6.3 The Commission recommends that labor organizations, Tribal governments, and States should voluntarily work together to ensure the enforceable right of free association – including the right to organize and bargain collectively – for employees of tribal casinos. Further, the Commission recommends that Congress should enact legislation establishing such worker rights only if there is not substantial voluntary progress toward this goal over a reasonable period of time.
- 6.4 The Commission recommends that Tribal governments, States and, where appropriate, labor organizations, should work voluntarily together to extend to employees of Tribal casinos the same or equivalent (or superior) protections that are applicable to comparable state or private-sector employees through Federal and State employment laws. If State employee protections are adopted as the standard for a particular tribal casino, then they should be those of the State in which that Tribal casino is located. Further, the Commission recommends that Congress should enact legislation providing such protections only if there is not substantial voluntary progress toward this goal over a reasonable period of time.
- 6.5 The Commission recognizes that under *IGRA*, Indian Tribes must annually report certain proprietary and non-proprietary Tribal governmental gambling financial information to the National Indian Gaming Commission, through certified, independently audited financial statements. The Commission recommends that certain aggregated financial, Indian gambling data from reporting Tribal governments, comparable by class, to the aggregated financial data mandatorily collected from commercial casinos and published by such States as Nevada and New Jersey, should be published by the National Indian Gaming Commission annually. Further, the Commission recommends that the independent auditors should also review and comment on each Tribal gambling operation's compliance with the Minimum Internal Control Standards promulgated by the NIGC.

- 6.6 The Commission recommends that, upon written request, a reporting Indian Tribe should make immediately available to any enrolled Tribal member the annual certified independently audited financial statements and compliance review of the MICS submitted to the National Indian Gaming Commission. A Tribal member should be able to inspect such financial statements and compliance reviews at the Tribal headquarters or request that they be mailed.
- 6.8 The Commission recommends that Tribal and State sovereignty should be recognized, protected, and preserved.
- 6.9.a The Commission recommends that all relevant governmental gambling regulatory agencies should take the rapid growth of commercial gambling, State lotteries, charitable gambling and Indian gambling into account as they formulate policies, laws, and regulations pertaining to legalized gambling in their jurisdictions. Further, the Commission recommends that that all relevant governmental gambling regulatory agencies should recognize the long overdue economic development Indian Gambling can generate.
- 6.9.b The Commission has heard substantial testimony from Tribal and State officials that uncompacted Tribal gambling has resulted in substantial litigation. Federal enforcement has, until lately, been mixed. We recommend that the Federal government fully and consistently enforce all provisions of the Indian Gaming Regulatory Act.
- 6.10 The Commission recommends that Tribes, States and local governments should continue to work together to resolve issues of mutual concern rather than relying on federal law to solve problems for them.
- 6.11 The Commission recommends that gambling Tribes, States and local governments should recognize the mutual benefits that may flow to communities from Indian gambling. Further, the Commission recommends that Tribes should enter into reciprocal agreements with State and local governments to mitigate the negative effects of the activities that may occur in other communities and to balance the rights of Tribal, state and local governments, Tribal members, and other citizens.
- 6.12 IGRA allows Tribes and States to negotiate any issues related to gambling. Nothing precludes voluntary agreements to deal with issues unrelated to gambling either within or without compacts. Many Tribes and States have agreements for any number of issues (e.g., taxes, zoning, environmental issues, natural resources management, hunting and fishing, etc.). The Commission recommends that the Federal government should leave these issues to the states and tribes for resolution.
- 6.13 The Commission recommends that Congress should specify a constitutionally sound means of resolving disputes between States and Tribes regarding Class III gambling. Further, the Commission recommends that all parties to Class III negotiations should be subject to an independent, impartial decision-maker who is empowered to approve compacts in the event a state refuses to enter into a Class III compact, but only if the decision-maker does not permit any Class III games that are not available to other citizens of the State and only if an effective regulatory structure is created.

- 6.15 The Commission recommends that Congress should adopt no law altering the right of Tribes to use existing telephone technology to link bingo games between Indian reservations when such forms of technology are used in conjunction with the playing of Class II bingo games as defined under the Indian Gaming Regulatory Act.
- 6.16 The Commission recommends that Tribal Governments should be encouraged to use some of the net revenues derived from Indian gambling as 'seed money' to further diversify Tribal economies and to reduce their dependence on gambling.

VII. GAMBLING'S IMPACTS ON PEOPLE AND PLACES

- 7.1 The Commission recommends to State, local and Tribal governments that (when considering the legalization of gambling or the repeal of gambling that is already legal) they should recognize that, especially in economically depressed communities, casino gambling has demonstrated the ability to generate economic development through the creation of quality jobs.
- 7.2 The Commission recommends to State, local and Tribal governments that (when considering the legalization of gambling or the repeal of gambling that is already legal) they should recognize that lotteries, Internet gambling, and non-casino electronic gambling devices do not create a concentration of good quality jobs and do not generate significant economic development.
- 7.3 The Commission recommends to State, local and Tribal governments that (when they are considering the legalization of casino gambling) casino development should be targeted for locations where the attendant jobs and economic development will benefit communities with high levels of unemployment and underemployment and a scarcity of jobs for which the residents of such communities are qualified.
- 7.4 The Commission recommends to State, local and Tribal governments that studies of gambling's economic impact and studies contemplating the legalization of gambling or the repeal of gambling that is already legal should include an analysis of gambling industry job quality, specifically income, medical benefits, and retirement benefits, relative to the quality of other jobs available in comparable industries within the labor market.
- 7.5 The Commission recommends to State, local and Tribal governments that when planning for gambling-related economic development, communities with legal gambling or that are considering the legalization of gambling should recognize that destination resorts create more and better quality jobs than casinos catering to a local clientele.
- 7.6 The Commission recommends to State, local and Tribal governments that communities with legal gambling or that are considering the legalization of gambling should look to cooperation between labor unions and management as a means for protecting job quality.
- 7.9 Because the easy availability of ATMs and credit machines encourages some gamblers to wager more than they intended, the Commission recommends that States, Tribal governments, and pari-mutuel facilities ban credit card cash advance machines and other devices activated by debit or credit cards from the immediate area where gambling takes place.
- 7.23 The Commission recommends that students should be warned of the dangers of gambling, beginning at the elementary level and continuing through college.

VIII. Future Research

- 8.1 The Commission recommends that Congress encourage the appropriate institutes within the National Institutes of Health (NIH) to convene a multi-disciplinary advisory panel that will help to establish a broad framework for research on problem and pathological gambling issues within its range of expertise.
- 8.2 The Commission recommends that Congress direct the Substance Abuse and Mental Health Services Administration (SAMHSA), or other appropriate agency, to add gambling components to the National Household Survey on Drug Abuse. To understand the expanding dimensions of problem and pathological gambling nationwide, gambling prevalence studies need to be of sufficient volume and with annual updates to record changes brought about by expanding legalization, greater accessibility, technological advances and increasingly sophisticated games. This survey would examine not only the general population, but also sizable subgroups like youth, women, elderly and minority gamblers, if no other more appropriate longitudinal studies focusing on each of these groups are available.
- 8.3 The Commission recommends that congress direct all Federal agencies conducting or supporting longitudinal research panels to consider the feasibility of adding a gambling component to such surveys and, where appropriate, entertain applications to add such components that are determined to be of high scientific merit through scientific peer review. In addition to addressing gambling behavior, these components should include questions about treatment seeking behavior, in order to begin to address the issue of the unmet need for treatment, which is currently unknown.
- 8.4 The Commission recommends that Congress encourage the National Institutes of Health (NIH) to issue a revision of the special research program announcement for research applications on pathological gambling to foster research designed to identify the age of initiation of gambling, legal and illegal forms of gambling, influence of family and correlates with other youth high risk behavior such as tobacco, alcohol and other drug use, early sexual activity and criminal activity.
- 8.5 The Commission recommends That Congress direct the appropriate institutes of the National Institutes of Health (NIH) to invite, where appropriate, applications for supplemental funds to add legal and illegal gambling components of high scientific merit to appropriate and relevant existing surveys, and to issue a revision of the special program announcement for research applications on pathological gambling to include the following areas:
 - a) Effects on family members, such as divorce, spousal and/or child abuse, severe financial instability
 - b) Analysis of public awareness education and prevention programs offered at federal, tribal, state or corporate levels.
 - c) Analysis of the development of gambling difficulties associated with electronic gambling machines and the risk factors that accompany this evolution for customers most likely drawn to this form of gambling.

- d) Effects on the workplace such as economic losses arising from unemployment, loss of productivity and workplace accidents.
- 8.6 The Commission recommends That Congress direct the appropriate institutes of the National Institute of Health (NIH) to invite, where appropriate, applications for supplemental funds to issue a revision of the special program announcement for research applications to commence a study of American adult problem gamblers below the pathological gambler threshold (APA DSM IV). The gambling behavior of those in this large group reveal warning signs that require thorough analysis. The gamblers in this group could go either way, that is, toward diminishing risks or toward pathological status.
- 8.7 The Commission recommends that Congress direct the Substance Abuse and Mental Health Services Administration, or other appropriate agency, to add specific gambling questions to its annual surveys of mental health providers, which are conducted by the Center for Mental Health Services.
- 8.8 The Commission recommends that Congress request the National Science Foundation to establish a multi-disciplinary research program on the social and economic impacts of legal and illegal gambling in the United States.

Such a program, at a minimum, should address the following factors:

- a. Benefits associated with different kinds of legal and illegal gambling including increased income, creation of new jobs, improvement in average wages and benefits, increased tax revenues, enhanced tourism and rising property values.
 - b. Costs associated with different kinds of legal and illegal gambling, including problem and pathological gambling, increased crime, displacement of native inhabitants, traffic congestion, demand for more public infrastructure, demand for more public services from the courts (criminal, bankruptcy, divorce) and from schools, police and fire departments.
- 8.9 The Commission recommends that Congress direct the National Institute of Justice (NIJ) or other appropriate agency to research what effect legal and illegal gambling has on property and/or violent crime rates. Such research should also examine whether gambling-related criminal activity is increased in neighboring jurisdictions where the arrest/gambler lives and/or works, but does not gamble.
- 8.10 The Commission recommends that Congress direct the NIJ, the Bureau of Justice and Statistics (BJS), or other appropriate agencies to add gambling components to on-going studies of federal prison inmates, parolees, and probationers who manifest disorders that frequently co-exist with pathological gambling.
- 8.11 The Commission recommends that Congress direct the National Institute of Justice (NIJ) or other appropriate agency to investigate the extent of adolescent participation in all legal and illegal gambling activities, including State lotteries. As part of its investigation, the agency is to collect, analyze and report on data from all relevant literature.

- 8.12 The Commission recommends that Congress direct the Department of Labor or other appropriate agency to research job quality in the gambling industry, as measured by income levels, health insurance coverage and affordability, pension benefits, job security and other similar indicators. The research should include a comparison between gambling jobs in a variety of communities and regions of the country. It should also compare job quality and availability in the gambling industry versus other comparable industries within those labor markets. Finally, it should also compare job quality at casinos with distinguishing characteristics, such as those that derive a significant part of their revenues from non-gambling components like hotels, food and beverage service and shopping and entertainment (often referred to as destination resorts) versus those dependent almost wholly on gambling revenues.
- 8.13 The Commission recommends that if Congress acts to prohibit Internet gambling that it also require the National Institute of Justice (NIJ) or other appropriate agency, twelve months after the effective date of the enabling statute, to measure its effectiveness for a period of one year. An estimate should be made of how much illegal Internet betting continues, despite the statutory prohibition. The factors contributing to successful evasion of the prohibition should be described in detail. Recommendations to Congress as to methods of closing the channels used to evade the prohibition should be made.
- 8.14 The Commission respectfully recommends to the Governor, State Legislature, and regulatory bodies of each state that they should authorize and fund every four years an objective study of the prevalence of problem and pathological gamblers among their state's residents by a nonpartisan research firm, whose work meets peer review standards.
- 8.16 The Commission recommends to Governors, State Legislatures, and regulatory bodies of each State that they should require, as a condition of the granting a license to operate a gambling facility, or to sell goods or services in a gambling facility, full cooperation in any research undertaken by the State needed to fulfill the legislative intent of the Federal and State statutory policy.
- 8.17 The Commission recommends that the Governor, State Legislature, and regulatory bodies of each State, and the Insurance Commissioner if elected, should direct their Department of Insurance to require that insurance companies, licensed to operate in their State, offer insurance coverage of treatment for customers who are problem or pathological gamblers.
- 8.18-8.74 Remanded to Research Subcommittee for recommendations.